



Independent Electricity
System Operator

1600 - 120 Adelaide Street West
Toronto, ON M5H 1T1
t 416 506 2800

www.ieso.ca

Monday January 26th, 2015

Peter G. S. Large
President
Association to protect Amherst Island
PO Box 6, 5695 Front Road,
Stella, ON K0H2S0

Dear Mr. Large,

Thank you for your letter to Mr. Bruce Campbell, President and CEO of the Independent Electricity System Operator (IESO). Mr. Campbell has asked me to respond on his behalf.

I understand that your association has a number of environmental concerns about the proposed Windlectric wind power facility on Amherst Island. I am confident that these concerns are being appropriately considered through the environmental approvals process. With respect to FIT contract issues, I would like to take this opportunity to reiterate my responses to previous letters and e-mails from you and your association colleagues.

As noted in my e-mail of January 7, 2014, we manage our FIT contracts according to their terms. While the milestone date for commercial operation (MCOD) for FIT facilities is three years after the Contract Date, the MCOB can be adjusted for events of Force Majeure. The Force Majeure framework for FIT Contracts is set out in Article 10 of the Agreement, which I previously sent to you. Before determining whether or not to accept a Force Majeure Claim by a Supplier, IESO contract management staff and legal counsel will review the Claim to ensure that it is a legitimate Force Majeure under the terms of the Contract.

The IESO also enters into stand down agreements with FIT Suppliers whose projects are subject to appeals by the Environmental Review Tribunal. These agreements provide for day to day relief for the length of the appeal in exchange for the Supplier agreeing not to begin most site preparation and construction activities until the Tribunal renders its decision. More information about this agreement can be found at <http://fit.powerauthority.on.ca/newsroom/february-14-2014-renewable-energy-approvals>. I have also attached a copy of the announcement.

If a Supplier misses their MCOB, the contract term (i.e. the period of time the facility is paid by the IESO for electricity production) is reduced on day for day basis. For example, if a project achieves commercial operation (i.e., comes into service) three months after MCOB, the contract term is reduced by three months. Suppliers can buy this time back for a fee, which is specified in the FIT Contract.

It is a default of the FIT Contract if a Supplier misses their MCOD by more than 18 months. Should this event occur the IESO has a right to terminate the FIT Contract. We have notified Suppliers that they should expect the IESO to exercise this right.

Regards,



JoAnne Butler
Vice President, Market and Resource Development
Independent Electricity System Operator

Cc: Bruce Campbell, President, IESO
Michael Killeavy, Director, Contract Management, IESO
Perry Cecchini, Manager, RESOP & FIT, IESO
Honourable Bob Chiarelli, Minister of Energy
Mr. Andrew Teliszewsky, Chief of Staff, MOE

[FIT Program](#)
[Contract Management](#)
[Unconstructed Rooftop Solar Pilot](#)
[Program Resources](#)
[FAQs](#)
[Program Updates](#)
[Public Consultation](#)
[Contact Us](#)

February 14, 2014: Approach for FIT Contracts that have Renewable Energy Approvals Appealed to the Environmental Review Tribunal

In response to concerns raised by Suppliers and other stakeholders, the OPA will contractually address appeals of Renewable Energy Approvals to the Environmental Review Tribunal. The information provided here is meant for informational purposes only and there will be no amendment, waiver or consent under the FIT Contract unless and until the OPA and Supplier enter into an amending agreement. Until such time as an amending agreement is entered into, the information provided here is not binding on the OPA and may not be relied upon by a Supplier.

The OPA recognizes that it is preferable from a community perspective if construction activities do not proceed during the Environmental Review Tribunal's proceedings and deliberations. Therefore, if a Supplier's Renewable Energy Approval is appealed to the Environmental Review Tribunal, the OPA is proposing to adjust a Supplier's Milestone Date for Commercial Operation for a period equal to the appeal period (defined by the period commencing at the date of the Notice of Appeal and terminating at the date of the Notice of Decision on the Environmental Registry). In order to obtain this relief, Suppliers must cease carrying out specified construction and site preparation activities until such time as the Tribunal renders its final decision in respect of the appeal. Exceptions will be made for specified activities that must proceed during certain periods of the year to avoid potential risks to endangered species or to mitigate environmental impacts. Any relief granted by the Amending Agreement shall be applied toward delay to the Commercial Operation Date as if the delay were due to an event of Force Majeure as set out in Section 10.1(g) of the FIT Contract. No additional Force Majeure relief will be available to Suppliers on the basis of the Environmental Review Tribunal appeal.

It shall remain a Supplier Event of Default (and the OPA maintains its right to terminate the Supplier's FIT Contract) if the Commercial Operation Date has not occurred on or before the following:

- For solar rooftop facilities, the date which is six months after the Milestone Date for Commercial Operation pursuant to section 1.3 of Exhibit A of the FIT Contract.
- For solar ground-mounted projects, the date which is 18 months after the Milestone Date for Commercial Operation pursuant to section 1.3 of Exhibit A of the FIT Contract, as amended by the OPA's letter to Suppliers of August, 2011.
- For all other FIT facilities, the date which is 18 months after the Milestone Date for Commercial Operation pursuant to 9.1(f) of the FIT Contract.

[A sample Amending Agreement can be found here.](#) Suppliers should contact their Contract Analyst if they have questions or require additional information.

[Log in](#)
[Register](#)
[microFIT](#)

What's New

January 14, 2015
[Webinar to Discuss Proposed Program Enhancements](#)

December 19
[Contracts Offered for Extended FIT 3 Procurement](#)

December 18
[Mandate of the OPA and the IESO](#)

December 1, 2014
[FIT Program Enhancements Being Considered for 2015](#)

October 9, 2014
[FIT Contract Version 3.0.2](#)

September 30, 2014:
[New FIT/microFIT Price Schedule Available](#)

September 26, 2014:
[Confirmation of Applicant Participation on the Extended FIT 3 Procurement](#)

Key Documents

[FIT Contract Version 3.0.2](#)
 October 9, 2014

[FIT Contract Version 3.0.1](#)
 August 26, 2014

[FIT Rules Version 3.0](#)
 October 29, 2013

[FIT Standard Definitions Version 3.0.1](#)
 August 14, 2014

[Price Schedule](#)
 Effective September 30, 2014

[Price Schedule](#)
 Effective January 1, 2014

[Transmission Availability Table](#)
 October 9, 2013

[FIT 3 Area Map](#)
 October 9, 2013

[FIT Prescribed Forms – Rules](#)
 October 9, 2013

[Download Adobe Acrobat Reader](#)
 (opens in new window)

